

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re application of:

Madaline Chirica, et al.

Appli. No.: 10/667,290  
(U.S. Pat. No. 7,411,041)

Filed: September 18, 2003

For: DCRS5 POLYPEPTIDES

Examiner: J. Seharaseyon

Art Unit: 1647

Conf. No.: 8667

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED ON PATENT UNDER 37 C.F.R. § 1.705(d)**

Sir:

1. This is a request under 37 C.F.R. § 1.705(d) for reconsideration of the patent term adjustment (PTA) of 672 days indicated on U.S. Patent No. 7,411,041 (issued Aug. 12, 2008). It is respectfully submitted that, in light of *Wyeth et al. v. Dudas*, No. 07-1492 (D.D.C. September 30, 2008), Applicants be afforded a PTA of **996 days**.

2. Pursuant to 37 C.F.R. § 1.705(d), this Request for Reconsideration of Patent Term Adjustment is timely filed within two months of the Aug. 12, 2008, issuance of U.S. Patent No. 7,411,041. Applicants could not have raised the issues raised herein under 37 C.F.R. § 1.705 (b), *i.e.* between the Notice of Allowance and payment of the issue fee, because it was not possible to be certain of the PTO's final determination of the PTA until after the patent issued, since post-issue-fee delays by the Office could have changed the PTA, and because the opinion in *Wyeth et al. v. Dudas* had not been rendered.

3. In compliance with 37 C.F.R. § 1.705(d), Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Grounds Under 37 C.F.R. § 1.702 For the Adjustment (37 C.F.R. § 1.705 (b)(2)(i) to (iv))". Briefly, Applicants request that the published PTA be amended to add delay under §154(b)(2)(B), as cut-off by filing of

an RCE, and as reduced by overlap with the period under §154(b)(2)(A), as described in greater detail in the accompanying Statement.

4. In further compliance with 37 C.F.R. § 1.705(d), Applicants submit herewith the \$200 fee set forth in 37 C.F.R. 1.18(e) as required by 37 C.F.R. § 1.705(b)(1). Any additional fees may be charged to, or refunds credited to, DNAX Deposit Account No. 04-1239.

Respectfully submitted,

Date: 10 October 2008

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